



STATE OF NEW JERSEY DEPARTMENT OF EDUCATION

Revised June 6, 2019

Questions and answers

Criminal History Record Checks

The Office of Student Protection is responsible for conducting criminal history background checks on employees in the public, private handicap, and nonpublic schools in New Jersey. It is the principle objective of the unit to execute the statutory mandates of the enabling legislation, N.J.S.A.18A:6-7.1 et seq., N.J.S.A.18A:39-17 et seq., N.J.S.A. 18A:6-4.13 et seq., and N.J.S.A. 18A:12-1 et seq. in a comprehensive and responsible manner. The Criminal History Record Check process includes a fingerprint search of the applicant/employee by the New Jersey State Police and the Federal Bureau of Investigation.

The educational facility or authorized contractor is statutorily responsible to ensure that the applicants, employees, or board/trustee members complete the Criminal History Record Check process prior to employment or service. They must provide the individual with the county, district, contractor and/or school codes and instructions on accessing the online e-payment process and the Identogo NJ universal fingerprinting form. Upon completion of this process, the applicant may access the Idemia website through a link on the e-payment process confirmation page.

Your fingerprints will be used to check the criminal history records of the Federal Bureau of Investigation (FBI). Please review Question #70 "FBI Noncriminal Justice Applicant's Privacy Rights.

The following is a list of frequently asked questions and answers regarding the criminal history background check process. Please review all questions as some categories may overlap. If you have a question that does not appear on this list, please contact the Office of Student Protection at 609-376-3999 for a response and to have your question included in our next update.

Questions and Answers

Criminal History Record Check

(N.J.S.A. 18A:6-7.1 et seq., N.J.S.A. 18A:39-17 et seq., N.J.S.A. 18A:6-4.13 et seq., and N.J.S.A. 18A:12-1 et seq.)

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70. FBI Noncriminal Justice Applicant’s Privacy Rights

1. How does a new applicant apply for a Criminal History Record Check?

1. Access the Office of Student Protection’s direct web address to begin the process. The web address is: <https://www.nj.gov/education/crimhist>. Click on “File Authorization and Make Electronic Payment for Criminal History Record Check.”

2. Select Option #1: “New Administration Fee Request (New Applicants Only)” - This screen displays four (4) options as to the job position(s) and employer. Please select the appropriate option and proceed to next screen.

1. All Job Positions, except School Bus Drivers and Bus Aides, for Public Schools, Private Schools for Students with Disabilities and Charter Schools
2. All School Bus Drivers and Bus Aides for Public Schools, Private Schools for Students with Disabilities, Charter Schools and Authorized School Bus Contractors
3. All Job Positions, except School Bus Drivers and Bus Aides, for Non-Public Schools
4. All School Bus Drivers and Bus Aides for Non-Public Schools and Other Agencies

3. Complete the requested applicant information (to include the county/district/school/contractor/vendor code names furnished to you by your employer) and proceed to the Legal Certification. In order to continue with the ePayment process, read and accept the terms of the Applicant Authorization and Certification form by checking the box.

4. Please complete the required payment information. There is a \$10.00 administrative fee for the department to process the request and issue an approval. There will also be an additional \$1.00 convenience fee charged by the private vendor, NicUSA for processing the credit card information. Methods of payment are Visa, MasterCard, American Express or Discover credit cards.

You must click the “Make Payment” button only one time to complete the transaction.

5. After completing the transaction, the individual will be presented with three required steps:

1. View and/or print your New Administration Fee Payment Request confirmation page
2. View and/or print your Identogo N.J. Universal Fingerprint Form
3. Click here to schedule your fingerprinting appointment with Idemia

Select the first option “View and/or print your New Administration Fee Payment Request confirmation page” and print a copy of the receipt by clicking the print button in the upper right corner of the page and presenting a copy to the employing entity.

Next select the second option “View and/or print your Identogo N.J. Universal Fingerprint Form.” You must print the Identogo N.J. Fingerprint Form and present it to

Idemia at the time of LiveScan fingerprinting.

Access the Idemia web page by selecting the third option “Click here to schedule your fingerprinting appointment with Idemia” to schedule a fingerprinting appointment and submit to LiveScan Fingerprinting.

When the Criminal History Review is completed, the applicant will be able to go to the Office of Student Protection’s website at <https://www.nj.gov/education/crimhist> to view and print their Applicant Approval Employment History or they will receive an Ineligible or Disqualification letter.

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2. How does an applicant complete the Archive Process?
 1. The employing entity must authorize the Archive submission.
 2. Your most recent Process Control Number is required for this process. Your Process Control Number can be obtained from your previous Idemia receipt or by accessing your Applicant Approval Employment History on the Office of Student Protection’s website.
 3. Access the Office of Student Protection’s web address to begin the process. The web address is <https://www.nj.gov/education/crimhist>. Click on “File Authorization and Make Electronic Payment for Criminal History Record Check” and then click on “Archive Application Request (Applicants Previously Fingerprinted and Approved Subsequent to February 2003).” Enter your social security number and click on “continue.” Select the position for which you are applying.
 4. Complete the On-Line Applicant Authorization and Certification request. The Applicant Authorization and Certification request consists of three steps: Input Information and Legal Certification, Payment, and Submit.
 5. The Applicant is not required to go to a site for Live Scan fingerprinting. The Office of Student Protection will request the check from Idemia.

See Question #13 for who is eligible for the Archive Process.

Note: Individuals who have filed online for the ePayment Criminal History Record Check and completed the Identogo N.J Universal Fingerprint Form but failed to print either the receipt or the Identogo NJ Universal Fingerprint form may now access the Reprint Your Confirmation or Identogo Fingerprinting Form located at the same Website cited above and obtain a copy of the receipt and Identogo fingerprint form for any previously submitted online requests.

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3. What are the disqualifying statutes and the year of their enactment?

October 8, 1986

- Sexual Offenses
- Child Abuse

August 11, 1989

- Sexual Offenses or child molestation as set forth in 2C:14-1 et seq.
- Endangering the welfare of a child or incompetent as set forth in 2C:P24-4 and 2C:24-7.
- Crime or offense involving the manufacture, transportation, sale, possession or habitual use of a controlled dangerous substance as defined in the New Jersey Controlled Dangerous Substances Act.
- A crime involving the use of force or the threat of force to or upon a person or property including: armed robbery, aggravated assault, kidnapping, arson, manslaughter and murder, or simple assault involving the use of force which results in bodily injury.
- In any other state or jurisdiction, a conviction involving conduct which, if committed in New Jersey would constitute any of the crimes or disorderly persons offense described in this section of this act.

June 30, 1998

- All first or second degree crimes.
- Child Abuse as set forth in R.S.9:6-1 et seq.
- Drug offense changed to reflect “as defined in the Comprehensive Drug Reform Act of 1987 2C:35-1 et al. or drug paraphernalia as defined in 2C:36-1 et seq.
- A crime involving the use of force or the threat of force to or upon a person or property including, but not limited to, robbery, aggravated assault, stalking, kidnapping, arson, manslaughter and murder.
- A crime as set forth in Chapter 39 of Title 2 C (Weapons), a third-degree crime as set forth in Chapter 20 (Theft) and the following crimes:
 - Recklessly endangering another person 2C:12-2
 - Terroristic threats 2C:12-3
 - Criminal restraint 2C:13-2
 - Luring, enticing child into MV, structure. Isolated Area. 2C:13-6
 - Causing or risking widespread injury or damage 2C:17-2
 - Criminal Mischief 2C:17-3
 - Burglary 2C:18-2
 - Usury 2C:21-19
 - Threats and other improper influence 2C:27-3
 - Perjury and false swearing 2C:28-3
 - Resisting arrest 2C:29-2
 - Escape 2C:29-5
 - Or Conspiracy to commit or an attempt to commit any of the crimes described in this act.
 - Applies if crime occurs in any other state or jurisdiction and is comparable to

NJ law.

February 21, 2003

- Legislation enacted that mandated the N.J. State Police retain the state fingerprint image on all applicants for school employment. Should the applicant be arrested subsequent to their approval, the Office of Student Protection will be notified and will contact the employing facility to take the appropriate action.

November 1, 2003

- Legislation enacted that mandated school bus drivers must have a motor vehicle abstract check of their driving record for D.W.I. and drug related offenses. If they are convicted of driving under the influence of alcohol or narcotics on 2 occasions during a 10-year period or one conviction while operating a school bus, they are permanently disqualified from public school employment. The responsibility for the searches rests with the Office of Student Protection.

May 4, 2007

- Law amended to allow unpaid volunteers to be submitted by the educational facilities for a criminal history background check. However, the educational facility must reimburse the volunteer for the cost of the check. This amendment makes it optional for the facility to reimburse paid employees.
- School bus driver law amended to include sections concerning “leaving a child on a school bus at completion of tour.” Includes, notifications to Department of Education and Superintendent of school; list incident on department Web site; action by Motor Vehicle Commission on “S” endorsement of driver.

September 1, 2009

- Department policy change that allows educational facilities to submit student teachers for the Criminal History Record Check process. The fee will be the same as the unpaid volunteer; however the state fingerprint image will not be retained.

October 30, 2009

- Criminal History Review administrative fee was raised to \$10.00 per applicant/employee.

January 12, 2010

- Department policy change that allows nonpublic school unpaid volunteers submit to the Criminal History Record Check as do the public school unpaid volunteers.

May 26, 2011

- N.J.S.A.18A:12-1 et seq. was amended and signed by Governor mandating Criminal History Record Checks for all District Board Members and members of the Board of Trustees for Charter Schools.
- Amended law adds two new crimes: Bias Intimidation and Fourth Degree Crimes involving a victim that is a juvenile.

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Idemia (Formally MorphoTrust)

4. What is the cost of the LiveScan fingerprinting process for school employment?

The current fee for new applicants for school employment, including nonpublic schools, is \$66.05 (effective June 1, 2019). There also is a \$10.00 administrative fee that is charged by the Department of Education plus a convenience fee charged by the vendor NicUSA. All Applicants and employees must submit requests for Criminal History Record Checks and archive submission requests via ePayments on the department website. New applicants must not schedule an appointment with Idemia to be fingerprinted unless they have submitted the online initial application request to the Office of Student Protection.

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5. Is the applicant required to make one or two payments?

Two payments are required for the process. The initial payment must be paid online to Department of Education with a credit or debit card in the amount of \$10.00 plus a convenience fee for NicUSA. The second payment is payable to Idemia in the amount of \$66.05 (effective June 1, 2019) in the form of a credit or debit card if scheduling online and by money order if paying at the time of printing. This payment will cover the fee for Idemia, the State Police, and the Federal Bureau of Investigation.

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6. Who is responsible for paying the criminal history background check fees?

The law states that the applicant must be responsible to pay all fees for the criminal history background checks, including any administrative costs. However, the employing educational facility/contractor/vendor may reimburse the paid applicant for the cost of the printing, including any administrative fees.

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7. How should the applicant schedule their appointment with Idemia?

Following submission of the Authorization, Legal Certification, Administrative Fee, and IdentGO New Jersey Universal Fingerprint Form to the Department of Education, applicants must schedule appointments online by accessing the Idemia Website at the link on the confirmation page. This is the most convenient and quickest way to schedule an appointment. You may also access the Idemia Website at: <https://www.bioapplicant.com/nj>. Also, English-speaking and Spanish-speaking applicants may call 1-877-503-5981. Hearing impaired applicants should call 1-800-673-0353. The call for hearing impaired must be placed from a telephone that is connected to a modem.

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8. Approximately how long is the turn-around time before the applicant is sent to Idemia?

To ensure compliance with state statute, the applicant must file the Authorization, Legal Certification, and Administrative Fee payment online at the department Website. Upon completion of the online process, the applicant may contact Idemia for an appointment to scan the fingerprints. Usually, appointments are available within seven working days.

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9. What criteria are required to have Idemia send a mobile unit to an educational facility or authorized contractor/vendor site to fingerprint applicants?

Requirements:

1. Scheduling agencies requiring a minimum of 35 to 40 applicants to be fingerprinted will pay a flat service fee of \$400.00 and will be assigned one operator. Scheduling agencies with 41 to 80 applicants will pay a flat fee of \$800.00 and will be assigned two operators. The aforementioned fee does not include the fee for state and federal processing of the fingerprints.
2. Capacity to house the fingerprint technician and his/her equipment (150 to 200 square feet per technician).
3. Appropriate furnishing, i.e. desk, chairs, waiting area.
4. Access to an analog telephone line for the purpose of transmitting data to the Idemia server.
5. Suitability for a business office environment allowing safe operation of computers and other electronic equipment. Other items to be considered are heat, humidity, electric service, and parking in close proximity to the site.
6. All arrangements for mobile unit processing must be made through the Office of Student Protection by calling 609-376-3999. Please allow six-eight weeks to schedule a mobile unit.

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10. Can a prospective job applicant for hire in an educational facility use a vendor other than the state-authorized vendor (Idemia) to have their fingerprints processed (LiveScan) through Department of Education for pre-employment screening?

No, Idemia is the only state-authorized vendor for fingerprint screening.

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11. What procedure will be followed if the prints are rejected under the new LiveScan system?

We anticipate a highly reduced rejection rate using LiveScan fingerprinting. However, when the Office of Student Protection receives information of a Bad Print Reject, we will notify the employing educational facility or authorized contractor/vendor. We will then

notify Idemia that the applicant's fingerprints were rejected, and they will contact the applicant/employee via US mail directly to schedule a new appointment at no charge. Please note: the New Jersey State Police and Federal Bureau of Investigation have a 90-day timeframe from the date the prints were rejected for the individual to resubmit for re-printing. Thereafter, both agencies will purge their records, and the individual will need to be printed as a new applicant.

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12. What positive identification may be required by Idemia when scanning prints?

Photo driver's licenses or other government-issued identification bearing the individual's photo will suffice. Most county clerk's offices and the Motor Vehicle Commission will issue a photo I.D. at a minimal charge. The applicant/employee must also have the Idemia Universal form in their possession at the time of LiveScan fingerprinting by technician.

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13. Who is eligible for the Archive Submission Process?

Applicants who were LiveScan printed subsequent to February 21, 2003 and have had the state fingerprint image retained by the New Jersey State Police and category Education Keep (E.D.K.) are eligible for the Archive Submission Process. The request for this process must be authorized by the employing entity and the employee must submit the request online at the department website. This form must include the most recent Process Control Number obtained from their previous Idemia receipt or their Applicant Approval Employment History from the Office of Student Protection website. The employee will not be required to go to a site to be LiveScan fingerprinted. This office will request the check from Idemia.

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14. What is the fee for the Archive Submission Process?

The current fee for the Archive Submission Process is \$28.75 plus a \$1.00 convenience fee for NicUSA. The Office of Student Protection will distribute the fee as follows: \$12.00 for the Federal Bureau of Investigation to search the print images and \$5.50 for Idemia to retrieve the fingerprints from archive and transmit them to the Federal Bureau of Investigation. The fee also includes a \$10.00 administrative fee for the Department of Education to process the request and issue the approval.

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Educational facility/authorized contractor/vendor

15. Which applicants or employees are required to undergo the Criminal History Record Check?

If the job position is mentioned in the statute (N.J.S.A.18A:6-7.2 i.e. teaching staff member, substitute teacher, teacher aide, child study team member, school physician, school nurse, custodian, school maintenance worker, cafeteria worker, school law enforcement officer, school secretary or clerical worker), regardless of pupil contact, the individual must submit to the Criminal History Record Check. In addition, any individual that has “regular pupil contact” must also undergo the Criminal History Record Check. “Regular pupil contact” is determined by the employing education facility in consultation with the school attorney.

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16. When the applicants are approved by the state, what do they receive indicating the approval and how long will this take? What is acceptable proof of approval for applicants and employees?

The applicant will be able to view and print their approval by accessing the “Applicant Approval Employment History” on the Office of Student Protection’s website. The process should take approximately two weeks from when the applicant is fingerprinted unless follow-up investigation is required. The applicants will no longer receive a letter with the blue seal of the State of New Jersey mailed to their home address. Valid proof of approval for applicants and employees would be the following:

- a. A copy of the “Applicant Approval Employment History” obtained from the department’s website.
- b. Information obtained on the department’s website at “Weekly Listing of Approved Applicants.”

It is the employing educational facility or authorized contractor/vendor that must ensure employees have completed the Criminal History Record Check process. If no approval is shown on the website within four weeks, please contact the Office of Student Protection at 609-376-3999.

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17. May educational facilities and authorized contractors/vendors still use the emergent hiring process?

Yes, if an applicant meets the criteria for emergent hiring and the employing educational facility can demonstrate to the executive county superintendent that an emergent need for that service exists, it may complete the emergent hiring form. However, the employee must file online with Department of Education for Initial Applicant Request and schedule the appointment with Idemia or file for the Archive Submission Process prior to starting employment.

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18. If an employee has been fingerprinted in the State of New Jersey for another purpose, is the employee required to go through the Criminal History Record Check process again?

Yes, since the regulations concerning dissemination of criminal history information prohibit sharing that material outside the intended purpose. Federal and state security and privacy regulations dictate that dissemination of this information may only be for the purpose expressed in the “Reason Fingerprinted.”

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19. If an employee changes jobs within the same educational facility, will s/he be required to submit to another Criminal History Record Check?

No, once an employee has gone through the process for one position, that employee may serve in any other position in that educational facility, except the position of school bus driver, without submitting to a new Criminal History Record Check. However, if the employee desires to become a substitute teacher, the New Jersey Administrative Code requires a Criminal History Record Check prior to the county office issuing substitute credentials. In this scenario, if the employee had a Criminal History Record Check for the same facility within five months of the application for substitute credentials, that criminal record check may be used by the county office for issuance of the teaching credentials.

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20. May a school bus driver employed directly by the educational facility also serve in any other position within that same district?

A school bus driver employed directly by an educational facility may work in other job positions within the same district without submitting to a new Criminal History Record Check. However, if the school bus driver desires to obtain substitute teaching credentials, they would require a new Criminal History Record Check using statute N.J.S.A. 18A:6-7.2.

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21. If an individual is hired after October 8, 1986 for a position without regular pupil contact and later transfers to a position with pupil contact, must that person undergo the Criminal History Record Check process?

Yes, it should occur prior to the time of transfer to the new position.

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22. Are volunteers and student teachers required to undergo the Criminal History Record Check process?

Unpaid volunteers may be submitted for the state and federal Criminal History Record Check at a reduced fee of \$24.05; however it is not mandatory. The department has been authorized to allow school districts to submit student teachers for the Criminal History Record Check process. They may be submitted by using the same codes and fees as that

used for submitting the unpaid volunteer. However, the state will not retain or flag the print image. Therefore, if the unpaid volunteer or student teacher is arrested subsequent to approval, no notification will be made to the department. Should the student teacher or the unpaid volunteer seek employment with an educational facility, they would be required to undergo a new Criminal History Record Check as would a new applicant for employment. They would not be eligible for the Archive Submission Process. Also, upon request from the nonpublic schools, this office will process volunteers using the nonpublic school statute, N.J.S.A.18A:6-4.14.

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23. Are employees who are hired for summer programs by the educational facilities required to undergo the Criminal History Record Check process?

Yes, the law states that the district may not employ or contract for the services of an individual without submitting that applicant through a Criminal History Record Check process. If the individual is hired each summer, the educational facility may check with their board attorney as to whether the resolution could be extended from year to year until such time as there is a resolution terminating that employee's position.

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24. Are employees under the age of 18 required to undergo the Criminal History Record Check process?

Yes, although juvenile criminal records are not available for non-criminal justice purposes, the State Bureau of Identification will report if the juvenile is listed on the sexual offender's list or if the juvenile is charged as an adult. Juveniles may obtain working papers at age 14 years. However, if the juvenile will be working in a paid position at the school building that s/he attends, fingerprinting would not be required. The juvenile has the legal authority to attend school.

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25. What about school crossing guards who are employed by the municipality and assigned to the educational facilities?

These individuals are not required to undergo the fingerprint process unless they are employed or contracted by the educational facility.

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26. Are there any penalties for an educational facility, authorized contractor/vendor, or employee who does not comply with the law?

Yes, the educational facility, authorized vendor, or employee may be subject to administrative action and a \$500.00 fine. School bus contractors and bus drivers who violate the provisions of this statute may be fined \$5,000.00 and be denied direct access

to the Office of Student Protection for processing future Criminal History Record Checks on their drivers and aides.

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27. If an educational facility/contractor/vendor hires an employee from another educational facility on a part-time basis, is that individual required to undergo the Criminal History Record Check process?

Yes, except for individuals employed in a substitute capacity or a contract service provider employee who works in multiple educational facilities simultaneously. Please see letter for “Contract Service Providers Working in Multiple Educational Facilities Simultaneously” at the following site: <https://www.nj.gov/education/crimhist> under “Chief School Administrator Letters.”

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28. Are athletic officials (i.e., umpires, referees, etc.) who officiate interscholastic games required to undergo the Criminal History Record Check process?

No, they are exempt.

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29. Are athletic coaches or coaching staff members required to go through the Criminal History Record Check process?

Yes, if they are employed or contracted by an educational facility. New Jersey Administrative Code requires coaches to obtain a substitute teaching certificate.

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30. Are School Board members (elected or appointed) required to submit to the Criminal History Record Check?

Effective May 26, 2011, N.J.S.A. 18A:12-1 et seq. mandates that all School Board members and members of a Board of Trustees for charter schools submit to the Criminal History Record Check.

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31. Are State Monitors required to submit to the Criminal History Record Check?

(Being reviewed)

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32. What is the procedure for contractor/vendors who have been authorized to submit Criminal

History Review record checks using codes assigned by the Office of Student Protection?

Contractor/vendors authorized to submit CHR checks directly to the Office of Student Protection will be able to process their employees similar to an educational facility. They will have the same responsibilities for hiring and responding to notifications of disqualified or ineligible applicants.

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33. How will contract employees working for the educational facility be included in the Criminal History Record Check process?

For those contractor/vendors who have not been assigned codes by the Office of Student Protection, it will be the responsibility of the educational facility where the contractor/vendor's employees will be working to process these individuals. The educational facility will provide the Office of Student Protection instructions for online filing and will have total responsibility to ensure that all employees of the contract service provider have complied with the Criminal History Record Check process.

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34. Are employees such as food service workers who were originally employed by a district and now work for a contractor who provides these services to the same educational facility be required to resubmit to the Criminal History Record Check process?

As long as these employees continue working in the same educational facility under contract with no break in service, they will not be required to undergo the Criminal History Record Check process.

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35. Are tutors required to undergo the Criminal History Record Check process?

Tutors, as employees of an educational facility, who have regular contact with pupils, or one-on-one computer contact, must undergo the Criminal History Record Check process.

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36. If an employee is laid off (dismissed because of employee reduction) and is asked to be re-employed by the educational facility or authorized contractor/vendor, will that person have to undergo the Criminal History Record Check process again? What about maternity and family leave?

If employees are laid off, their employment is terminated and they must submit to a new Criminal History Record Check when they are re-employed. In cases of maternity and family leave, the applicant is placed on a leave of absence and is "made whole" upon returning to the educational facility and is not required to undergo the Criminal History Record Check.

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37. When does an approval expire?

Approvals issued by the Office of Student Protection are valid only in the district that employs the applicant. A new approval is required whenever changing districts/contractors or seeking employment in more than one district. The new approval can be acquired by submitting to the Archive Process. (This does not apply to substitute positions or school bus drivers.)

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38. Are substitute employees (i.e., teachers, custodians, nurses etc.) required to undergo the Criminal History Record Check process again when changing educational facilities?

For the first calendar year after the approval date, a substitute employee may be put on any substitute list in any educational facility in the state without providing proof of continuous employment, until their job category changes to a non-substitute position. After the first calendar year of the approval date, there is no need to have the substitute reapply for a Criminal History Record Check when adding a new educational facility as long as one of the original educational facilities is annually rehiring the substitute and there is no break in service. However, the new employer should require proof of continuous employment. Once approved in a non-substitute position, the first year calendar rule no longer applies. An individual who is first hired as a substitute and later selected for a permanent position, other than school bus driver, within the same educational facility, is not required to undergo a new Criminal History Record Check.

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39. What procedure should be followed for individuals in substitute positions and school bus drivers who change or add on new employers?

All educational facilities and authorized school bus contractors that employ school bus drivers or individuals serving in substitute positions who transfer from one employer to another, must ensure that a Transfer Request was submitted online at the Office of Student Protection website. The Transfer Request may be submitted by the applicant or the employer. Please visit our website at: <https://www.nj.gov/education/crimhist> and select "File Authorization and Make Electronic Payment For Criminal History Record Check" then select Transfer Request (Only Substitutes & Bus Drivers are eligible). Effective August 22, 2016, there will be a \$5.00 fee and an additional \$1.00 convenience fee charged by the payment processing company to submit a Transfer Request.

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40. For substitute employees how should an educational facility verify an employee completed the Criminal History Record Check process in another educational facility?

The educational facility may request that the substitute produce a copy of their Applicant

Approval Employment History or they can access it on the Office of Student Protection website.

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41. Will the Department of Education notify the employing educational facility or authorized contractor/vendor of the disqualification of an applicant?

Yes, upon confirmation of a conviction or pending crime/offense of a disqualifying nature, the educational facility or authorized contractor/vendor will immediately be notified that the applicant is disqualified or not eligible for employment. Our investigators confirm employment through the Department of Labor Wage Reporting Database on all applicants/employees who are disqualified, rendered ineligible, or suspended by the Motor Vehicle Commission. This process will assure that those educational facilities and authorized contractor/vendors who employ individuals serving in substitute positions, school bus drivers, or individuals working in multiple districts simultaneously, will be notified to take the appropriate action.

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42. When will the Department of Education notify the applicant of his/her disqualification?

Simultaneously, with notification to the educational facility or authorized contractors/vendors, the applicant is also notified via regular mail of their disqualification from employment. The applicant has 14 days, and in the case of a school bus driver 30 days, to challenge the accuracy of the criminal history record; however, the employee may not have student contact during the challenge.

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43. Under what circumstances may an educational facility or authorized contractor/vendor reinstate a disqualified employee?

When an employee is disqualified, suspended, or released by the employing entity based on a notification of ineligibility by the Office of Student Protection, the employing entity may not rehire that individual until they receive written notification from our office.

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44. If the criminal history background check reveals convictions for crimes which are not disqualifying, may the Department of Education disclose those convictions to the employing educational facility or authorized contractor/vendor?

No, the Privacy Act precludes the Department of Education from disseminating criminal history record information to the employing entity.

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45. If an educational facility or authorized contractor/vendor wants to check an employee who is not required to go through the process by law, what procedure should it follow?

There is a law that permits an employer to request an employee to submit to a state fingerprint check (no federal check is allowed). Contact the New Jersey State Police at 609-882-2000 extension 2918 and request a 212B Applicant State Fingerprint Check form.

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46. May educational facilities or authorized contractors/vendors deny employment to an applicant who refuses to submit to a Criminal History Record Check?

Yes, if the job category is included in the law or there is regular pupil contact, the applicant must submit to a background check or not be hired.

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47. If an applicant holding a teaching certificate is disqualified, what action will be taken?

As required by law, the Department of Education will notify the State Board of Examiners for appropriate action.

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48. What is a “break in service?”

When the individual’s employment is no longer required as indicated by Board Resolution, this would constitute a “break in service.”

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49. What is “continuous employment?”

When an employee is “board-approved” by resolution in the same educational facility, s/he is considered to have continuous employment. Once the employee leaves that district to seek employment in a new district, that person no longer has continuous employment.

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50. If an employee transfers to schools within the same district, are they required to undergo a new Criminal History Record Check?

No, since the educational facility is the common employer.

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51. When should an employee be required to undergo a “new” Criminal History Record Check?

A school bus driver must submit to a new Criminal History Record Check upon renewal of his/her driver’s license. All other employees who break service with the employing educational facility are considered new employees and must submit to a new Criminal History Record Check through the new educational facility. The exception is employees in substitute positions. Please see response in Question #38.

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52. If an employee of an educational facility retires and then returns to school employment, what procedure must be followed?

Guidance should be sought from the Division of Pensions regarding re-employment as a retiree’s pension benefits may be adversely affected.

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53. May substitute certificates be issued before a Criminal History Record Check has been completed? Is a new Criminal History Record Check required for renewing the substitute credentials?

Applicants applying for a substitute teaching certificate from the county superintendent must produce a copy of their Applicant Approval Employment History from the Office of Student Protection website prior to the certificate being issued. However, the employing educational facility may employ the substitute on an emergent basis if they demonstrate a need exists. A new Criminal History Record Check is not required for renewing the substitute credentials providing the credentials have not expired.

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54. Do all employees who are submitted for a Criminal History Record Check require an executive county superintendent’s approval prior to employment?

Those individuals who need to be hired on an emergent basis will require an executive county superintendent’s approval. All other employees who are being processed must wait for the Office of Student Protection to issue an approval prior to starting their employment.

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55. Does the educational facility have to wait for the executive county superintendent’s approval on the Emergent Hiring form before the district may permit the employee to start working?

Yes, an applicant may not begin working until the educational facility has received an

Emergent Hiring form signed by the executive county superintendent.

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56. Where do contractors/vendors send Emergent Hiring forms for approval?

Authorized contractors/vendors who have been assigned specific code numbers by this office may send requests for emergent hiring directly to the executive county superintendent authorizing that company to work in a specific school district. All other contractors/vendors must go through the respective school district.

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57. When does the applicant's three-month emergent hiring begin, upon the board approval date, county approval or receipt of online application data by the Office of Student Protection?

The three-month emergent hiring begins with the approval of the executive county superintendent, the required online initial application or archive application request is submitted, and the applicant has scheduled an appointment with Idemia for LiveScan fingerprinting.

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58. What are the procedures to follow should the time-line of three-months expire?

Requests for a two-month extension must be submitted to the Office of Student Protection. Educational facilities and authorized contractors/vendors should check with the applicant to ascertain whether they received an approval before sending in requests for extensions.

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59. Is the emergent approval interchangeable with all educational facilities for substitute employees or must each educational facility apply for emergent approval for the substitute; i.e. if a substitute teacher is seeking employment in four educational facilities, must each facility request approval?

The emergent approval from the executive county superintendent is not interchangeable with other districts. Each request must be submitted by the respective employing district/contractor.

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60. Is there a need to verify emergent approval prior to the issuing of a substitute certificate?

The substitute may not teach in a public educational facility until that person undergoes the background check and obtains valid substitute teaching credentials. The exception

would be if the employing district obtained an emergent hiring approval for the substitute teaching position from the county superintendent. In that case, the credentials could be issued pending the criminal history background check.

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School bus driver

61. May authorized school bus contractors process their drivers directly to the Office of Student Protection?

Yes, they must make application to this office, and they will be assigned their own code numbers.

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62. When must school bus drivers undergo the Criminal History Record Check?

School bus drivers must submit to the Criminal History Record Check upon initial application for a school bus driver endorsement and upon renewal of the basic driver's license.

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63. When should the school bus driver begin the Criminal History Record Check process required to renew their "S" endorsement?

A school bus driver should start the Criminal History Record Check process about one to two months (but no sooner than three months) prior to the expiration of his/her driver's license to facilitate a smooth transition.

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64. Are charter bus operators required to undergo the Criminal History Record Check process?

Charter bus operators used on an infrequent basis are exempt because they do not have "regular pupil contact."

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65. If a school bus driver is employed or contracted by a public school district to transport private school children, must that person undergo the Criminal History Record Check process?

Yes, since the driver is an employee of a public educational facility, the driver must be fingerprinted.

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66. On initial application for a school bus driver's license or renewal of this license, is the school district, contractor, or school bus driver applicant responsible for submitting proof of the Criminal History Record Check to the Motor Vehicle Commission?

Yes, for initial application and renewal of the school bus driver's "S" endorsement, the driver must provide a copy of their Applicant Approval Employment History that they printed from the Office of Student Protection's website to the Motor Vehicle Commission.

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67. What procedure must be followed when a school bus driver transfers to a new company or district with a valid approval date?

Please refer to Question #39.

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68. What is the difference between the school bus driver and school bus aide?

School bus drivers must use *N.J.S.A. 18A:39-19.1* when submitting to the Criminal History Record Check. They are printed initially when obtaining the "S" endorsement from the Motor Vehicle Commission and thereafter, each time they renew their driver's license. The school bus aide must be printed under *N.J.S.A. 18A:6-7.2*. Thereafter, if they remain with the same company, no further printing is required. However, if the aides change employers, they must undergo the Criminal History Record Check as a new employee.

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69. May a school bus driver renew their "S" endorsement if they are currently not employed as a school bus driver?

No, a school bus driver must be employed with an educational facility or an authorized school bus contractor prior to undergoing the Criminal History Record Check through the Department of Education. Should the school bus driver's "S" endorsement expire, the Motor Vehicle Commission will allow a period of time for the driver to renew the endorsement. If the school bus driver does not renew in that period of time, s/he will be required to undergo new testing for the "S" endorsement.

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70. FBI Noncriminal Justice Applicant's Privacy Rights

As an applicant who is the subject of a national fingerprint-based criminal history record

check for a noncriminal justice purpose (such as an application for employment or a license, an immigration or naturalization matter, security clearance, or adoption) you have certain rights which are discussed below.

- You must provide written notifications that your fingerprints will be used to check the criminal history records of the FBI.
- You must be provided, and acknowledge receipt of, an adequate Privacy Act Statement when you submit your fingerprints and associated personal information. This Privacy Act Statement should explain the authority for collecting your information and how your information will be used, retained, and shared, (2)
- If you have a criminal history record, the officials making a determination of your suitability for the employment, license, or other benefit must provide you the opportunity to complete or challenge the accuracy of the information in the record
- The officials must advise you that the procedures for obtaining a change, correction, or update of your criminal history record are set forth at Title 28, Code of Federal Regulations (FR), Section 16.34.
- If you have a criminal history record, you should be afforded a reasonable amount of time to correct or complete the record (or decline to do so) before the officials deny you the employment, license, or other benefit based on information in the criminal history record. (3)

You have the right to expect that officials receiving the results of the criminal history record check will use it only for authorized purposes and will not retain or disseminate it in violation of federal statute, regulation or executive order, or rule, procedure or standard established by the National Crime Prevention and Privacy Compact Council. (4)

If agency policy permits, the officials may provide you with a copy of your FBI criminal history record for review and possible challenge. If agency policy does not permit it to provide you a copy of the record, you may obtain a copy of the record by submitting fingerprints and a fee to the FBI. Information regarding this process may be obtained at: <https://www.fbi.gov/services/cjis/identity-history-summary-checks>.

If you decide to challenge the accuracy or completeness of your FBI criminal history record, you should send your challenge to the agency that contributed the questioned information to the FBI. Alternatively, you may send your challenge directly to the FBI. The FBI will then forward your challenge to the agency that contributed the questioned information and request the agency to verify or correct the challenged entry. Upon receipt of an official communication from that agency, the FBI will make any necessary changes/corrections to your record in accordance with information supplied by that agency. (See 28 CFR 16.30 through 16.34)

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1. Written notification includes electronic notification but excludes oral notification.
 2. <https://www.fbi.gov/services/cjis/compact-council/privacy-act-statement>
 3. See 28 CFR 50.12(b)
 4. See 5 U.S.C. 552a(b); 28 U.S.C. 534(b); 42 U.S.C. 14616, Article IV(c); 28 CFR 20.21(c), 20.33(d) and 906.2 (d).

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Additional updates will be posted to the website when available. If you have any questions, please contact the Office of Student Protection by at phone at (609) 376-3999 or email at OfficeofStudentProtection@doe.nj.gov.